

## **Fiscal Year 2015 Summary of Region 5 Tribal Program Activities Region 5 Tribal Operations Committee ~ November 2015**

### **Section I. Introduction**

In February 2015, the Region 5 Tribal Operations Committee (R5TOC) Tribal Caucus requested that the Indian Environmental Office (IEO) develop a report on the Region 5 tribal program. After discussion at the April 2015 R5TOC meeting and during Tribal Caucus monthly conference calls, the framework for this document was developed.

This summary provides an overview of the work that Region 5 has undertaken to protect human health and the environment in Indian country during Fiscal Year 2015. It offers an opportunity to assess what has been accomplished and where additional work is needed. The summary provides information that both EPA and tribal representatives can use when serving on national work groups.

IEO coordinated the development of this document, with information provided by the Region's media Division offices. Additional information is available from the Agency's on-line public information resources. Links to this are provided in the relevant sections of the summary.

Region 5 is committed to implementing the *EPA Policy for the Administration of Environmental Programs on Indian Reservations* (EPA Indian Policy). Developing this summary allows the Agency and tribes to assess how the Region is meeting the standards set in the EPA Indian Policy. To that end, each section identifies the related principle(s) of the EPA Indian Policy.

### **Section II. Region 5 Tribal Program Goals and/or Objectives**

*Supports EPA Indian Policy Principle 9: The Agency will incorporate these Indian Policy goals into its planning and management activities, including its budget, operating guidance, legislative initiatives, management accountability system and ongoing policy and regulations development processes.*

The Office of International and Tribal Affairs (OITA) is the National Program Manager (NPM) for IEO. Through its NPM Guidance, OITA provides the operational program strategies and measures for implementing the Agency's tribal program across the country. The current OITA NPM Guidance (covering Fiscal Years 2014-2015) identifies three tribal program priorities:

1. EPA acts in a manner consistent with the one-to-one, government-to-government relationship with federally recognized Indian tribes;
2. EPA and tribal governments work together to identify, design and implement effective environmental programs on tribal lands that are protective of human health and the environment; and
3. EPA collaborates in a meaningful, open and interactive manner with tribal governments in areas of mutual concern regarding environmental and human health protection in Indian country.

The three program priorities above are the Agency's expectations for how all its programs will engage with tribal governments to ensure effective partnerships. These priorities are to be incorporated into all the work that EPA does with tribes.

In addition, the OITA NPM Guidance provides three specific focus areas and corresponding activities, which are the goals/objectives for the Region 5 tribal program. The IEO works with the media Divisions to ensure that Region 5 meets these standards, and is responsible for reporting progress on certain measures to the NPM.

#### 1. Implementation of Federal Environmental Programs in Indian Country

- Unless and until a tribal government has assumed full responsibility for a delegable program, the applicable federal environmental programs are implemented by EPA.
- Encourage tribes to participate in policy-making and to assume appropriate lesser or partial roles in the management of reservation programs. For example, tribes may play an important role in helping to assure compliance for regulated entities, including compliance assistance, information distribution, and identification of regulated entities.
- Use direct implementation tribal cooperative agreements, where appropriate, to provide opportunities for tribes to perform program implementation activities.
- Encourage tribes who are interested to assume delegable responsibilities for environmental program implementation under EPA statutes, and provide technical assistance and guidance on the approval process as needed.

#### 2. Implementation of the Indian Environmental General Assistance Program (GAP)

- Consistent with the new GAP Guidance, Regions will develop tribal environmental agreements with each federally-recognized tribe requesting GAP funds.

#### 3. Implementation of EPA's Policy on Consultation and Coordination with Indian Tribes

- Consultation opportunities will be publicly available on the Tribal Consultation Opportunities Tracking System.
- Regional Administrators will implement tribal consultation under the Executive Order and EPA Consultation Policy, and ensure that all four phases described in the Consultation Policy are appropriately implemented.

The OITA NPM Guidance is posted at: <http://www2.epa.gov/planandbudget/>.

### **Section III. Direct Implementation Activities Conducted in Fiscal Year 2015**

*Supports EPA Indian Policy Principle 8: The Agency will strive to assure compliance with environmental statutes and regulations on Indian reservations.*

EPA has the responsibility to manage federal environmental programs in Indian country, unless and

until tribal governments have assumed regulatory and program management authorities. The Agency will assist interested tribal governments in assuming regulatory and program management responsibilities for those programs that have delegable responsibilities. EPA recognizes that because it will take time and resources for tribes to assume regulatory responsibilities, there will be a period of time during which EPA is primarily responsible for managing federal environmental programs for Indian country. For those responsibilities that cannot be assumed by tribal governments, the Agency will continue to ensure implementation in Indian country.

In carrying out its responsibilities for Indian country, EPA's fundamental objective is to protect human health and the environment. EPA recognizes tribal governments as sovereign entities with primary authority and responsibility for reservation populations. EPA's Indian Policy recognizes the Agency's commitment to working with tribes on a government-to-government basis in making decisions to carry out program responsibilities in Indian country. As with other responsibilities carried out by EPA, the Agency's program implementation efforts are constrained by the availability of resources and the limitations of federal authorities. Given resources constraints, EPA's program implementation efforts will focus on areas of greatest significance to the protection of human health and the environment.

In the Tribal Environmental Agreements (TEAs) that are developed with tribal governments, Region 5 has identified its direct implementation activities for every reservation. As the TEAs are implemented, IEO Tribal Liaisons meet regularly with tribal staff to review the progress on these activities. In addition, IEO assists the media Divisions to complete their respective direct implementation responsibilities through coordination with tribal staff, consultation actions, logistical arrangements, verification of facility information, and other activities.

| <b>Clean Air Act Direct Implementation Activities</b> |                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permitting                                            | <ul style="list-style-type: none"> <li>Permits were issued under the Part 49 – Tribal Minor New Source Review Program and the Title V – Part 71 Federal Operating program</li> </ul> <p>Permit activities can be viewed online at: <a href="http://www.epa.gov/reg5oair/">http://www.epa.gov/reg5oair/</a></p> |
| Inventory Work                                        | <ul style="list-style-type: none"> <li>Each tribe was provided an updated minor source spreadsheet with registration and permitting status of facilities and requested to submit corrections/additions</li> </ul>                                                                                              |
| Compliance Assurance                                  | <ul style="list-style-type: none"> <li>Compliance assistance was provided on the applicability of the Part 49-Tribal Minor New Source Review Program</li> </ul>                                                                                                                                                |

| <b>Clean Water Act and Safe Drinking Water Act Direct Implementation Activities</b> |                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permitting                                                                          | <ul style="list-style-type: none"> <li>Under the National Pollutant Discharge Elimination System Program, reissued or modified surface water discharge and municipal separate storm sewer system permits</li> <li>Issued Section 401 Water Quality Certifications</li> <li>Under Safe Drinking Water Act, issued draft permit for Class II injection well</li> </ul> |
| Inventory Work                                                                      | <ul style="list-style-type: none"> <li>A preliminary inventory was developed of the facilities that potentially will need coverage under the federal storm water Multi-Sector General Permit (MSGP) that was reissued in June 2015; Region 5 will notify each facility by letter</li> </ul>                                                                          |

|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                        | Inspections were conducted to inventory underground injection control Class V wells; Water Division will review the inspection reports and notify the appropriate tribes in FY 2016                                                                                                                                                                                                                                                                          |
| Compliance Inspections | <ul style="list-style-type: none"> <li>Under the National Compliance Monitoring Strategy, Region 5 met its commitment for inspections at facilities in Indian country with surface water discharge permits</li> <li>In conjunction with Indian Health Service, Region 5 conducted required sanitary surveys at public drinking water systems to ensure that community systems are inspected every year and non-community systems every five years</li> </ul> |
| Compliance Assurance   | <ul style="list-style-type: none"> <li>The Water Division is working with tribes to return to compliance facilities that were found to be in violation during inspections in 2013 and 2014</li> <li>At least quarterly, the Water Division reviewed the Discharge Monitoring Report forms for facilities required to report to ensure completeness and identify trends of noncompliance</li> </ul>                                                           |

| <b>Comprehensive Environmental Response, Compensation and Liability Act Direct Implementation Activities</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Site Assessments                                                                                             | <ul style="list-style-type: none"> <li>Humboldt Mill (Michigan)</li> <li>Government Road, County Road A and Verlyn Clark Sludge Disposal Sites (Bad River Band Reservation)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Proposed National Priority List (NPL) Site Remediation Plans                                                 | <ul style="list-style-type: none"> <li>Allied Paper/Portage Creek/Kalamazoo River Superfund Site (Michigan) – (1) feasibility study on 22-mile section of Kalamazoo River from Morrow Dam to the former Plainwell Dam and a 3-mile section of Portage Creek from Alcott Street to the Kalamazoo River; (2) proposed plan to remediate contaminated soil at Plainwell Mill; (3) proposed plan for Allied Landfill</li> <li>St. Regis Paper Company (Leech Lake Band Reservation) – (1) supplemental soil feasibility studies; (2) proposed plan under development for soil clean-up</li> <li>Tittabawassee River (Michigan) – proposed clean-up plan for in-channel sediment and riverbank soil in segment 3 of the River</li> <li>Ashland/NSP Lakefront Superfund Site (Wisconsin) – final design package for wet dredge pilot study to evaluate options for sediment clean-up</li> </ul> |
| Five Year Reviews of Remedies in Place at NPL Sites                                                          | <ul style="list-style-type: none"> <li>St. Regis Paper Company</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Targeted Brownfield Assessments                                                                              | <ul style="list-style-type: none"> <li>Appleton Service (Oneida Tribe Reservation)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

| <b>Federal Insecticide, Fungicide, and Rodenticide Act Direct Implementation Activities</b> |                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Certification Program                                                                       | <ul style="list-style-type: none"> <li>Issued new or renewed federal certifications of applicators of restricted-use pesticides in Region 5 Indian country</li> </ul> |

| <b>Resource Conservation and Recovery Act Direct Implementation Activities</b> |                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Compliance Inspections                                                         | <ul style="list-style-type: none"> <li>Inspections conducted at facilities with underground storage tanks (USTs) to ensure that facilities are inspected at least once every three years</li> </ul> |

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|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Compliance Assurance   | <ul style="list-style-type: none"> <li>• Compliance assistance calls/visits were conducted at facilities with USTs</li> <li>• Compliance visits were conducted at construction and demolition waste landfills to review and verify compliance with 40 CFR Part 257—Criteria for Classification of Solid Waste Disposal Facilities and Practices</li> </ul>                                                                                                                                                                                                                                                                                           |
| Assessment/Remediation | <ul style="list-style-type: none"> <li>• Provided oversight to responsible parties at leaking underground storage tanks (LUSTs) that are conducting activities to close sites under federal regulations</li> <li>• Directly managing assessment and remediation activities at LUST sites that are using the LUST Trust Fund</li> <li>• Completed responsible party searches to determine whether a viable responsible party exists; EPA will work with viable responsible parties to clean-up sites; high priority sites with no viable responsible party are candidates for funding under the LUST Trust Fund and EPA project management</li> </ul> |
| Inventory Work         | <ul style="list-style-type: none"> <li>• Worked with tribes to update data in their open dump inventories and coordinated information with Indian Health Service</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

#### **Section IV: EPA-Tribal Joint Implementation of Federal Authorities**

*Supports EPA Indian Policy Principle 2: The Agency will recognize tribal governments as the primary parties for setting standards, making environmental policy decisions and managing programs for reservations, consistent with Agency standards and regulations; Principle 3: The Agency will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands; and Principle 8: The Agency will strive to assure compliance with environmental statutes and regulations on Indian reservations.*

In implementing programs in Indian country, the Agency may take different approaches depending upon specific circumstances. In some cases, EPA may assign Agency personnel to perform direct implementation activities. In other cases, EPA can develop inter-agency agreements with other federal agencies or use contractors. In addition, the Agency can also develop memoranda of understanding, cooperative agreements, and/or direct implementation tribal cooperative agreements (DITCAs) with tribal governments which are interested in assisting EPA with program implementation responsibilities.

Through the TEAs and interaction with tribal staff, IEO works with the media Divisions to identify tribes that are interested in assisting EPA with program implementation. IEO provides support for these projects through assisting with the development of any necessary memoranda of understanding/work plans, identifying/contributing funding, providing approvals for particular activities, and helping the media Divisions to coordinate/consult with tribal staff.

Implementation of the Clean Water Act (CWA) – Five tribes in Region 5 have staff with federal inspector credentials under the Storm Water Construction General Permit Program. These credentialed staff provide compliance assistance and inspections on behalf of EPA at regulated sites within their respective reservation boundaries. One tribe has received federal inspector credentials for the Section 404 Dredge and Fill Program. EPA authorized seven compliance assistance visits/inspections by tribal staff. These activities are supported through CWA Section 106 funding.

Implementation of the Federal Insecticide, Fungicide, and Rodenticide Act – Through cooperative agreements, Region 5 is working with three tribes on projects related to ensuring compliance with federal pesticide regulations, pesticide safety in tribal communities, and developing appropriate approaches to pest management for their specific communities.

Implementation of the Safe Drinking Water Act – Water Division funded a DITCA to an inter-tribal organization for a compliance assistance project at a tribal public water supply system, to decrease the risk of contamination to the system and ensure compliance with federal standards. The system will receive new meters to track water loss and a source water protection plan will be drafted that includes regulatory and non-regulatory approaches to preventing contamination, emergency plans, and source water protection roles and responsibilities.

**FY 2015 Highlight: First federal inspector credentials issued to a tribe/inter-tribal organization in Region 5 for the Underground Injection Control Program**

**Staff from the Inter-Tribal Council of Michigan received federal inspector credentials for the Underground Injection Control Class V program. Inspections were conducted on behalf of EPA on four reservations in Michigan to verify whether facilities were regulated under this program. This project was supported through the Agency's national contract funding.**

Implementation of the Resource Conservation and Recovery Act – Region 5 funded six tribes/inter-tribal organizations to conduct underground storage tank compliance assistance and compliance inspections on behalf of EPA in Indian country. These activities are supported through DITCAs.

**Section V: Region 5 Activities Related to Program Delegation, Approvals, and Authorizations**

*Supports the EPA Indian Policy Principle 2: The Agency will recognize tribal governments as the primary parties for setting standards, making environmental policy decisions and managing programs for reservations, consistent with Agency standards and regulations; and Principle 3: The Agency will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands.*

Under Principle 3 of the EPA Indian Policy, EPA “will assist interested tribal governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands. Within the constraints of EPA’s authority and resources, this aid will include providing grants and other assistance to tribes similar to that we provide state governments. The Agency will encourage tribes to assume delegable responsibilities, (i.e. responsibilities which the Agency has traditionally delegated to state governments for non-reservation lands) under terms similar to those governing delegations to states.”

Through funding under GAP and media Division grants, Region 5 provides financial support to tribes for the development of program delegation, approval, and authorization applications. Region 5 staff

also provide technical assistance during the development of the application materials. When an application is submitted, a staff-level review team is formed from the relevant media Division, Office of Regional Counsel, and appropriate IEO Tribal Liaison. This team is responsible for ensuring that all the steps in the Agency review/approval process are satisfied, and maintaining communication with the tribal government.

| <b>Number of Region 5 Tribes with Federal Program Approvals</b>                                                          |          |                       |
|--------------------------------------------------------------------------------------------------------------------------|----------|-----------------------|
| <b>Clean Air Act</b>                                                                                                     |          |                       |
| Federal Authority                                                                                                        | Approved | Application Submitted |
| Section 105: Air pollution control grants                                                                                | 5        | 2                     |
| Section 505(a)(2): Notification to Administrator and contiguous states                                                   | 5        | 2                     |
| Section 126: Interstate pollution abatement                                                                              | 1        | 1                     |
| Section 107(d)(3): Air control regions/NAAQS redesignation                                                               | 0        | 1                     |
| Section 110(a)(2)(d): Abatement of interstate pollution that interferes with the attainment and maintenance of the NAAQS | 0        | 1                     |
| <b>Clean Water Act</b>                                                                                                   |          |                       |
| Federal Authority                                                                                                        | Approved | Application Submitted |
| Section 106: Water pollution control grants                                                                              | 35       | NA                    |
| Section 319: Non-point source pollution program                                                                          | 15       | 0                     |
| Section 303/401: Water quality standards/water quality certification                                                     | 5        | 3                     |
| <b>Toxic Substances Control Act (Lead-Based Paint)</b>                                                                   |          |                       |
| Federal Authority                                                                                                        | Approved | Application Submitted |
| Section 402(a): Lead-Based Paint Abatement Program                                                                       | 3        | 0                     |
| Section 402(c): Lead-Based Paint Renovation, Repair and Painting (RRP) Program                                           | 3        | 0                     |
| Section 406(b): Lead-Based Paint Pre-Renovation Education (PRE) Program                                                  | 1        | 0                     |

#### **Fiscal Year 2015 Activities under the Clean Air Act (CAA)**

Grand Portage Band submitted supplemental material in March 2015 to augment its application for eligibility under CAA Sections 105, 505(a)(2), and 126 of the CAA. The Regional Administrator signed

the completeness determination on June 30 and made the application available to the state and appropriate governmental entities for review and comment in July 2015. The comment period ended on August 17. EPA is working with the Tribe to address the state's comments and complete processing of the application and make a final eligibility determination.

Mille Lacs Band of Ojibwe also submitted supplemental information for its application for eligibility under CAA Sections 105 and 505(a)(2) of the CAA. The Regional Administrator signed the completeness determination in September 2015 and made the application available to the state and appropriate governmental entities for review and comment. The comment period ended on October 15, 2015. EPA will work with the Tribe to address the state's comments if necessary and complete processing of the application and make a final eligibility determination.

Forest County Potawatomi Community submitted an application in February 2014 for eligibility under CAA Sections 107(d)(3) and 110(a)(2)(d). The Region 5 review of the application is currently on hold, as EPA Headquarters reviews the national procedures to process supplemental applications for CAA authority under the Tribal Authority Rule. Once EPA Headquarters issues some guidance on this issue, Region 5 will proceed with processing the application.

#### **Fiscal Year 2015 Activities under the Clean Water Act (CWA)**

Little River Band of Ottawa Indians submitted an application for program authority for the CWA 319 Non-Point Source Program in December of 2014. It was approved by the Regional Administrator in June 2015.

Keweenaw Bay Indian Community submitted an application for CWA 303/401 in June 2013. The comment period ended in December 2013. EPA is currently working with the Tribe to complete processing the application. Development of water quality standards (WQS) would help maintain high quality water and ensure healthy ecosystems, as well as the economic, cultural, and spiritual well-being of its members.

Red Lake Band of Chippewa Indians submitted an application for CWA 303/401 in November 2013. The comment period ended in June 2014. EPA is currently working with the Tribe to complete processing the application. The CWA 303/401 authorities will allow the Tribe to develop and refine WQS which will be used to protect the Band's water resources.

Forest County Potawatomi Community submitted an application for CWA 303/401 in December 2013. The comment period ended in June 2014. EPA is currently working with the Tribe to complete processing the application. The development of WQS continues water protection work already being carried out under CWA 106 and 319 authorities, including conducting watershed assessments, shoreline and stream bank restoration projects, and enhancing watersheds and wetlands.

#### **Fiscal Year 2015 Activities under the Toxic Substances Control Act (TSCA)**

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|----------------------------------------------------------------------------------------------|
| <b>FY 2015 Highlight: Region 5 Tribe is the first in the nation to receive approval of a</b> |
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tribal RRP program, and the first tribe to be approved for all three of the TSCA lead-based paint programs

In a Federal Register notice dated February 4, 2015, the U.S. Environmental Protection Agency announced the approval of the Bois Forte Band application for authorization to administer and enforce tribal lead-based paint activities (abatement); renovation, repair and painting (RRP); and pre-renovation education (PRE) programs in lieu of the federal program on tribal trust lands within the reservation boundaries. That approval was effective November 13, 2014.

## **Section VI: Indian Environmental General Assistance Program (GAP)**

*Supports EPA Indian Policy Principle 2: The Agency will recognize tribal governments as the primary parties for setting standards, making environmental policy decisions and managing programs for reservations, consistent with Agency standards and regulations; and Principle 3: The Agency will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands.*

In Region 5, the Indian Environmental Office is responsible for administering GAP, consistent with the “Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia” issued by the Agency in May 2013. GAP was created in 1992 to assist federally recognized tribes and inter-tribal consortia to plan, develop, and establish the capacity to implement programs administered by EPA, and to assist in the development and implementation of solid and hazardous waste programs for Indian country. GAP provides both financial and technical resources for program development.

Tribes receive GAP funds either through a stand-alone assistance award or through a performance partnership grant that combines at least two sources of eligible funding in one award. Region 5 considers GAP as base funding for tribal environmental programs, and as such has historically offered each federally recognized tribe an equal allocation. For Fiscal Year 2015, the maximum annual allocation amount is \$110,000. Consistent with the Grants Policy Issuance 13-02: Streamlining Tribal Grants Management, Region 5 issues GAP funding in awards that span two-years, to accommodate multi-year planning and reduce administrative burden. About half of the tribes receive funding each fiscal year, which allows Region 5 to fully-fund each GAP award.

The GAP funds available to Region 5 each year are from a combination of sources: the annual allocation from Headquarters, any “carry-over” funds that were not obligated in the previous fiscal year, funds that were de-obligated from awards that ended and had unspent balances, and special allocations from Headquarters.

For Fiscal Year 2015, the Region 5 GAP budget totaled \$4,290,929.

| <b>FY 2015 GAP Funding Source</b> | <b>Amount*</b> |
|-----------------------------------|----------------|
|-----------------------------------|----------------|

|                                      |              |
|--------------------------------------|--------------|
| Annual Allocation from Headquarters  | \$ 3,910,191 |
| Supplemental Funds from Headquarters | \$ 114,245   |
| Carry-over from Fiscal Year 2014     | \$ 201,885   |
| De-obligations                       | \$ 64,608    |
| Total                                | \$ 4,290,929 |

\* Please note that these figures include the Congressionally-mandated rescission to EPA's State and Tribal Assistance Grant account, which applied to both FY 2015 funding and FY 2014 carry-over funds.

Using \$3,600,295, Region 5 provided two-years of GAP funding to tribes that had awards expiring in March, September, or December 2015.

### Supplemental Project Funding

GAP funds remained after fully-funding the expiring grants. In addition, Headquarters notified the Regional Offices that supplemental funding could be requested. Region 5 looked to identify projects consistent with EPA's goal to help tribes build capacity for the development and implementation of tribal environmental regulatory programs that protect human health and the environment. Projects were evaluated on the following criteria: shovel-ready; pilot projects with the potential for widespread application; applicability to more than one tribe or EPA program; priority of the EPA Administrator, Region 5 Regional Administrator, or Region 5 Program; ability to leverage other federal funds; and link to a tribal environmental agreement.

**FY 2015 Highlight: Region 5 successfully competed for approximately 36% of the funding available nationally from Headquarters for GAP supplemental projects**

**Using \$114,245 in supplemental funds from Headquarters and \$566,223 in remaining Region 5 GAP funds, the Region was able to fund 25 additional capacity-building projects for tribal environmental programs.**

| Project                                              |  |  |
|------------------------------------------------------|--|--|
| applications and water quality standards development |  |  |
| source pollution program development                 |  |  |
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|                                                      |  |  |
|                                                      |  |  |
| resources management capacity                        |  |  |

### **Tribal Environmental Agreements**

Under the GAP Guidance, EPA Regional offices are expected to develop strategic planning documents with each tribe receiving GAP funding. According to the GAP Guidance, the purpose of these documents is to “develop the complete picture of the particular environmental issues facing the tribe, establish a shared understanding of the issues the tribe will be working on, and a shared understanding of those issues that EPA will address consistent with its responsibility to protect human health and the environment.” The planning document is expected to define the environmental program capacities that each tribe will establish, and the tribe’s GAP work plan should reflect the planning document.

**FY 2015 Highlight: All 35 federally recognized tribes have developed TEAs with Region 5 that meet the components in the national GAP Guidance**

**Since 1994, Region 5 has partnered with tribal governments to develop joint plans for environmental protection on their respective reservations. In Fiscal Year 2015, Region 5 developed a new format for the TEAs that is consistent with the components outlined in the GAP Guidance. Region 5 also began to transition to 4-year TEAs that correspond to each tribe’s two-year GAP/PPG funding cycle.**

### **Section VII: Implementation of EPA Tribal Consultation Policies**

*Supports EPA Indian Policy Principle 5: The Agency, in keeping with the federal trust responsibility, will assure that tribal concerns and interests are considered whenever EPA’s actions and/or decisions may affect reservation environments.*

In 2000, Executive Order 13175 *Consultation and Coordination with Indian Tribal Governments* was issued to “establish regular and meaningful consultation and collaboration with tribal officials.” In 2009 a Presidential Memorandum was released, directing executive departments and agencies to submit a detailed plan of actions to implement Executive Order 13175. In response, EPA issued an *EPA Policy on Consultation and Coordination with Indian Tribes* in May 2011. This Policy established national guidelines and institutional controls for consultation with federally-recognized tribal governments when Agency actions and decisions may affect tribal interests.

In July 2011, Region 5 issued *EPA Region 5 Implementation Procedures for EPA Policy on Consultation and Coordination with Indian Tribes*, providing further direction to EPA Region 5 employees on consulting with tribal governments “in a manner that is meaningful, respectful of EPA Region 5 tribal preferences, and consistent with the EPA Tribal Consultation Policy.” Under those Procedures, the IEO Director serves as the Tribal Consultation Advisor for Region 5 and is responsible for developing a plan for Region 5 actions requiring consultation, monitoring the effectiveness of the Region’s tribal consultation procedures, and recommending procedural improvements. The IEO Liaisons provide input to the project lead and consultation team.

The Agency tracks all consultations conducted by both national and regional program offices through the Tribal Consultation Opportunities Tracking System (TCOTS) online database which is accessible at: <http://tcots.epa.gov/>.

| <b>FY 2015 Consultation Actions Specific to Region 5</b> |                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Division</b>                                          | <b>Topic</b>                                                                                                                                                                                                                                                                                                                          |
| Air and Radiation Division                               | In FY 2015, there were no formal consultations, however, outreach and collaboration with tribes was conducted on the processing of permits under the Part 49-Tribal Minor New Source Review Program, the Region 5 Taconite Federal Implementation Plan, and designations for the sulfur dioxide National Ambient Air Quality Standard |
| Land and Chemicals Division                              | Tower Standard leaking underground storage tank (LUST) site and other LUST sites within the Lac du Flambeau Reservation Boundaries                                                                                                                                                                                                    |
| Great Lakes National Program Office                      | Spirit Lake Sediment Project- Draft Feasibility Study                                                                                                                                                                                                                                                                                 |
| Superfund Division                                       | St. Regis Paper Company Superfund Site                                                                                                                                                                                                                                                                                                |
|                                                          | Humboldt Mill Site Assessment                                                                                                                                                                                                                                                                                                         |
| Water Division                                           | General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems in Indian Country within the State of Wisconsin                                                                                                                                                                                           |
|                                                          | Minnesota Revised Human Health Water Quality Criteria Methodology                                                                                                                                                                                                                                                                     |
|                                                          | Underground Injection Control Application Review and Draft Permit for Higgins 1-2 Injection Well                                                                                                                                                                                                                                      |
|                                                          | WDNR Request for Variance to Wisconsin Water Quality Standards for Mercury – City of La Crosse Waste Water Treatment Plant                                                                                                                                                                                                            |
|                                                          | Michigan Multi-Discharger Mercury Variance                                                                                                                                                                                                                                                                                            |
|                                                          | Section 401 Certification for the Bois Forte Fish Passage and River                                                                                                                                                                                                                                                                   |
|                                                          | St. Paul District Corps of Engineers Proposal to Re-issue GP-10-R                                                                                                                                                                                                                                                                     |
|                                                          | Consultation on Section 401 Certification for the Hiawatha Beach Resort                                                                                                                                                                                                                                                               |
|                                                          | State of Minnesota 2014 303(d) list                                                                                                                                                                                                                                                                                                   |
|                                                          | Badgerwood Concentrated Animal Feeding Operation – The Water Division has acknowledged the request for consultation from the Bad River Band and the Red Cliff Band, and is currently making arrangements for consultation.                                                                                                            |

## **Section VIII: Tribal Environmental Program Capacity-Building Activities**

*Supports EPA Indian Policy Principle 2: The Agency will recognize tribal governments as*

*the primary parties for setting standards, making environmental policy decisions and managing programs for reservations, consistent with Agency standards and regulations; and Principle 3: The Agency will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands.*

Region 5 works with tribal governments and inter-tribal organizations to enhance and maintain the environmental program capacities of each of the 35 federally recognized tribes. IEO coordinates with the media Divisions to identify capacity-building needs through the TEAs, interaction between the Tribal Liaisons and tribal staff, and input from the Region 5 Tribal Operations Committee. Capacity-building is supported through a number of methods: funding, training, joint projects and exercises, and technical assistance.

| <b>FY 2015 Media Division Funding</b>                                                                                            |                                |                                  |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------|
| <b>Funding Program</b>                                                                                                           | <b>Number of Tribes Funded</b> | <b>Amount of Funding Awarded</b> |
| Clean Air Act Section 103/105                                                                                                    | 16                             | \$ 1,216,261                     |
| Clean Water Act Section 106 – Water Resources Program                                                                            | 34                             | \$ 4,642,200                     |
| Clean Water Act Section 319 – Non-Point Source Pollution                                                                         | 15                             | \$ 440,000                       |
| Clean Water Act Section 319 – Competitive Non-Point Source Pollution                                                             | 01                             | \$ 100,000                       |
| Clean Water Act Section 104 – Wetland Program Development Grant                                                                  | 01                             | \$ 177,461                       |
| Public Water Supply System Support                                                                                               | 35 tribes covered              | \$ 661,000                       |
| Drinking Water Infrastructure Grants – Tribal Set-Aside                                                                          | 06                             | \$ 1,118,000                     |
| Clean Water Act Wastewater Grants – Tribal Set-Aside                                                                             | 10                             | \$ 2,018,606                     |
| Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 128(a) – Site Response Program Development | 19                             | \$ 2,075,698                     |
| EPA/IHS Interagency Agreement for Tribal Integrated Waste Management                                                             | 01                             | \$ 21,100                        |
| Great Lakes Restoration Initiative – Capacity-Building Funds                                                                     | 10                             | \$ 435,534                       |

| <b>FY 2015 Training/Technical Assistance Activities</b> |                                                                                                                                                                                                          |                                                    |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| <b>Region 5 Division</b>                                | <b>Type of Training/Technical Assistance</b>                                                                                                                                                             | <b>Audience</b>                                    |
| Air and Radiation Division                              | Monthly conference call with tribal staff on Clean Water Act issues                                                                                                                                      | Tribal Environmental Staff                         |
|                                                         | Ambient and indoor air quality training track                                                                                                                                                            | Tribal Environmental Program Management Conference |
| Land and Chemicals Division                             | Underground storage tank “boot camp” hosted by the Oneida Tribe                                                                                                                                          | Tribal Environmental Staff                         |
|                                                         | Project evaluating whether pesticide treatments for emerald ash borer may have left residues in the wood that could lead to health effects from dermal and oral exposure when used to create baskets and | Tribal Staff and Crafts People                     |

|                    |                                                                                                                                                                                                                                                                                                     |                                                                     |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
|                    | other items, and possibly secondary exposure when using the finished goods                                                                                                                                                                                                                          |                                                                     |
|                    | Two Tribal Household Hazardous Waste Management Trainings                                                                                                                                                                                                                                           | Tribal and IHS Staff                                                |
|                    | National webinar on tribal household hazardous waste management                                                                                                                                                                                                                                     | Tribal and federal staff                                            |
|                    | Assisted Fond du Lac Band with community-based social marketing (CBSM) demonstration project and developing draft Tribal CBSM toolkit                                                                                                                                                               | Fond du Lac Band environmental staff and Fond du Lac Tribal College |
|                    | National webinar on draft Tribal CBSM toolkit                                                                                                                                                                                                                                                       | Tribal, federal, and state staff; tribal colleges, NGOs             |
|                    | Assisted tribes with disaster debris management planning and other climate change adaptation waste management issues, in coordination with Bureau of Indian Affairs, using the Tribal Climate Ready Waste Management Planning Tool and Region 5 Disaster Debris Online Resources                    | Tribal staff                                                        |
|                    | Outreach sessions Tribal Climate Ready Waste Management Planning Tool at Tribal Shifting Seasons Summit and National Adaptation Forum                                                                                                                                                               | Tribal and federal staff                                            |
|                    | Assisted tribes with customizing budget templates for integrated waste management programs                                                                                                                                                                                                          | Tribal staff                                                        |
|                    | Assisted tribes with evaluating waste-to-energy options and feasibility studies                                                                                                                                                                                                                     | Tribal staff                                                        |
|                    | Assisted Red Lake Band with waste characterization in conjunction with a training course for the Red Lake Tribal College                                                                                                                                                                            | Red Lake Band staff, IHS staff, Red Lake Tribal College students    |
|                    | Reviewed draft integrated waste management plans and provided comments                                                                                                                                                                                                                              | Tribal staff                                                        |
|                    | Assisted tribes with updating open dump inventory data and closure issues                                                                                                                                                                                                                           | Tribal staff                                                        |
| Superfund Division | Via webinar, an overview was provided of an interactive web-based mapping tool that federal on-scene coordinators use when responding to a spill or release of oil/hazardous materials                                                                                                              | Michigan Tribal Environmental Group                                 |
|                    | Greener Clean ups – the basics of greener clean ups including the American Society for Testing Materials Standard Guide for Greener Cleanups; examples of greener cleanup actions and techniques; a case study implementing best management practices; and available resources for greener cleanups | Tribal Environmental Program Management Conference                  |
|                    | Sampling for Hazardous Materials – hosted by the Lac du Flambeau Band and conducted by EPA contractors; the course focused on various techniques for collecting soil and water samples, including hands-on training opportunities                                                                   | Tribal Environmental Staff                                          |
| Water Division     | Tribal Water Workshop                                                                                                                                                                                                                                                                               | Tribal Environmental                                                |

|  |                                                                                                                                                                                                                                                                                    |                            |
|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|  |                                                                                                                                                                                                                                                                                    | Staff                      |
|  | Monthly conference call with tribal staff on Clean Water Act issues                                                                                                                                                                                                                | Tribal Environmental Staff |
|  | Monthly conference call for tribal staff with federal inspector credentials under the storm water construction general permit program                                                                                                                                              | Tribal Inspectors          |
|  | Technical assistance, capacity development, compliance assistance, and operator certification training for tribal drinking water and wastewater operators provided through a contract with the Midwest Assistance Program and an Inter-Agency Agreement with Indian Health Service | Tribal Utility Operators   |

**FY 2015 Highlight: National Tribal Forum on Air Quality hosted by the Nottawaseppi Huron Band of Potawatomi Indians**

In May 2015, NHBP hosted this national conference on improving air quality. An annual event, the conference attracted 199 attendees, including representatives from 85 tribes or inter-tribal organizations. Region 5 EPA and tribal staff had key roles in organizing and implementing the conference. This was the first national gathering hosted by NHBP at their facility in Battle Creek, Michigan.

| FY 2015 Joint Projects and Exercises |                                                                                                              |                                                |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Region 5 Division                    | Project/Exercise                                                                                             | Audience                                       |
| Superfund Division                   | Emergency preparedness tabletop exercise involving railroad transportation of crude oil in central Minnesota | Mille Lacs Band                                |
|                                      | Straits of Mackinaw functional exercise in northern lower Michigan led by Enbridge Pipeline Company          | Tribal Governments in the area of the exercise |